

## **806 KAR 2:092. Disclosure of local government taxes and collection fee.**

RELATES TO: KRS 91A.080, 91A.0804, 91A.0810, 304.3-150

STATUTORY AUTHORITY: KRS 91A.080, 91A.0810

NECESSITY, FUNCTION, AND CONFORMITY: KRS 91A.0810 requires an insurance company to disclose the amount of local government premium taxes charged to an insured and identify the taxing jurisdiction. KRS 91A.080 provides the Department of Insurance with general oversight over the local government premium tax system and express authority to promulgate administrative regulations providing for a reasonable collection fee and the accounting and reporting procedures related to the collection and reporting of the license fees, taxes, and collection fees. HB 524 of the 2008 Regular Session, which included new sections of Chapter 91A and required disclosures, reinforced the Department's authority by providing a two year period for assessments to pay for the Department's costs in administering the various local government premium tax requirements. This administrative regulation sets minimum standards for the disclosure of local government taxes and collection fees to policyholders.

### **Section 1. Definitions.**

- (1) "Collection fee" means the fee established in KRS 91A.080(4).
- (2) "Insurance company" means:
  - (a) An entity holding a certificate of authority in accordance with KRS 304.3-150; and
  - (b) A surplus lines broker licensed in accordance with KRS 304.10-120.
- (3) "Local government tax" or "tax" means the license fee or tax imposed by a local government in accordance with KRS 91A.080, except the collection fee.

### **Section 2. Disclosure of Local Government Tax.**

- (1) An insurance company shall disclose to the policyholder the amount of local government tax being charged to the policyholder and the taxing jurisdiction to which the tax is due.
- (2) Disclosure of a local government tax shall not be required if the insurance company does not charge the tax to the policyholder.
- (3) The disclosure shall:
  - (a) Itemize:
    1. The amount of tax and any collection fee charged to the policyholder for each taxing jurisdiction; and
    2. The name or abbreviation clearly identifying each corresponding taxing jurisdiction to which the tax is due; and
  - (b) Be provided to the policyholder:
    1. For newly issued policies, on the:
      - a. Policy;
      - b. Declaration sheet; or
      - c. Initial billing; and
    2. For renewed policies, on the:
      - a. Renewal certificate upon renewal of the policy; or
      - b. Billing for each period for which premium or additional premium is charged to a policyholder by the insurance company.
- (4)(a) If local government tax is owed to multiple taxing jurisdictions, the disclosure required in subsection (3) of this section shall list separately each taxing jurisdiction to which tax is owed.
- (b) If a credit of a city tax is applied to a county tax pursuant to KRS 91A.080(12), and the result is that no tax is owed to the county, the disclosure may include the county in the itemiza-

tion of taxing jurisdictions required in subsection (3) of this section.

(5) If a collection fee is included in the amount charged to the policyholder, the disclosure shall state that the amount includes the tax and a collection fee.

(6)(a) An insurance company may provide the disclosure on a notice separate from either the renewal certificate or billing if providing the disclosure on the renewal certificate or billing would cause the disclosure to be illegible due to type size or other space considerations.

(b) If the disclosure is provided on a separate notice, the insurance company shall provide the disclosure to the policyholder at the same time and in the same manner as the insurance company provides the renewal certificate or billing.

### Section 3. Collection Fee.

(1) An insurance company may charge to and collect from an insured a collection fee in addition to a local government tax.

(2) An insurer may charge up to the maximum collection fee established in KRS 91A.080(4).

(3) If an insurance company is owed a refund or credit on the local government premium tax charged to a policyholder, any collection fee received by the insurance company shall be returned to the policyholder on a pro rata basis. (35 Ky.R. 682; Am. 1224; eff. 1-5-2009; 45 Ky.R. 1423, 3075; eff. 5-31-2019.)